

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DUANE URBAN,)	
BRIAN SMITH,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 08-260-GMS
)	
HOWARD R. YOUNG CORRECTIONAL)	
INST/STAFF & CORRECTIONS,)	
MEDICAL COMMITTEE,)	
MENTAL HEALTH COMMITTEE,)	
)	
Defendants.)	

ORDER

1. The plaintiffs, Duane Urban, SBI #468622, and Brian Smith, SBI #596768, are pro se litigants who are presently incarcerated, and have filed this action pursuant to 42 U.S.C. § 1983 without prepayment of the filing fee.

2. Consistent with 28 U.S.C. § 1915(a)(1), only plaintiff Duane Urban has submitted an affidavit stating that he has no assets with which to prepay the filing fee. Based on the affidavit, his request to proceed in forma pauperis is granted.

3. Notwithstanding the above, pursuant to 28 U.S.C. § 1915(b)(1), the plaintiffs are jointly and severally liable for the filing fee and shall be assessed the filing fee of \$350.00. In order to determine the schedule of payments of the filing fee, plaintiff **Brian Smith** shall submit to the Clerk of Court, a request to proceed in forma pauperis. **Each plaintiff shall submit** a certified copy of his **trust fund account statement** (memorandum or institutional equivalent, with attachments)

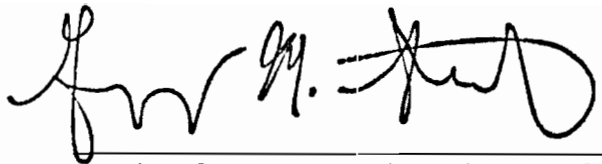
showing all deposits, expenditures and balances during the six-month period, immediately preceding the filing of the complaint, obtained from the appropriate official at the institution at which the plaintiff is confined. **FAILURE OF THE PLAINTIFFS TO RETURN THE REQUESTED INFORMATION WITHIN 30 DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE.**

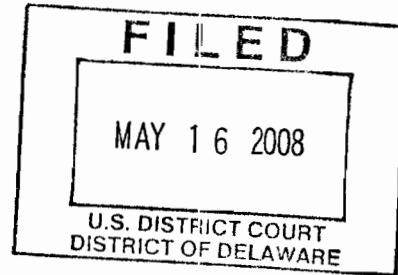
4. Unless the Court determines from each plaintiff's financial information that he has no assets whatsoever, an initial partial filing fee of 20 percent (20%) of the greater of the plaintiff's average monthly deposit or average monthly balance in the trust fund account shall be required to be paid before the court reviews the complaint. **NOTWITHSTANDING ANY PAYMENT MADE, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.**

5. Pursuant to 28 U.S.C. § 1915(g), if the plaintiff has had three or more actions dismissed by the Court on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, then the Court shall deny the plaintiff leave to proceed in forma pauperis in all future suits filed without prepayment of the filing fee, unless the Court determines that the plaintiff is under imminent danger of

serious physical injury.

DATED: *May 16, 2008*


United States District Judge



**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

Plaintiff

V.

Defendant(s)

**APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT**

CASE NUMBER: 08-260 GMS

I, _____ declare that I am the (check appropriate box)

☐

Petitioner/Plaintiff/Movant

☐

Other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915, I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☐ No (If "No" go to Question 2)

If "YES" state the place of your incarceration _____

Inmate Identification Number (Required): _____

Are you employed at the institution? _____ Do you receive any payment from the institution? _____

Attach a ledger sheet from the institution of your incarceration detailing all transactions over the past six months.

2. Are you currently employed? ☐ Yes ☐ No

a. If the answer is "YES" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "NO" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- | | | |
|---|------------------------------|-----------------------------|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Rent payments, interest or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Disability or workers compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. Gifts or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "YES" describe each source of money and state the amount received *AND* what you expect you will continue to receive.

AO 240 Reverse (Rev 10/03)
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4. Do you have any cash or checking or savings accounts? ☐ Yes ☐ No
- If "Yes" state the total amount \$ _____
5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or other valuable property? ☐ Yes ☐ No

If "Yes" describe the property and state its value.

6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support, *OR* state *NONE* if applicable.

I declare under penalty of perjury that the above information is true and correct.

DATE

SIGNATURE OF APPLICANT

NOTE TO PRISONER: A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.